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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,117	03/12/2004	Daniel P. Guyton	30011.24987	7081

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Emerson, Thomson & Bennett, LLC  
1914 Akron-Peninsula Road  
Akron, OH 44313

EXAMINER
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EDELL, JOSEPH F

ART UNIT	PAPER NUMBER
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3636

NOTIFICATION DATE	DELIVERY MODE
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09/14/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

iplaw@etblaw.com  
dlm@etblaw.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/799,117	<b>Applicant(s)</b> GUYTON ET AL.	
	<b>Examiner</b> JOSEPH EDELL	<b>Art Unit</b> 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 June 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the connecting means being hook and loop fasteners and/or zippers must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 6-8, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,742,957 to Vanzant in view of U.S. Patent No. 6,209,159 B1 to Murphy and U.S. Patent No. 6,113,188 to Stewart et al.

Vanzant disclose an air lifted seat apparatus that is basically the same as that recited in claims 1-3, 6-8, and 13 except that the apparatus lacks a cover, a compartment, a rechargeable self-contained air compressor, and a second valve, as recited in the claims. See Figures 1-12 of Vanzant for the teaching that the apparatus has a rigid base 210, one-piece inflatable bladder 1,2 including a rectangular front portion, a rectangular rear portion with a height appearing at least three times the height of the front portion upon full inflation, and first and second trapezoidal shaped side panels operatively connected to the front and rear portions, a valve 18 operatively connected to one of the first and second side panels, an air compressor 14, and a hose 16 with a first end connected to the compressor and a second end connected to the valve wherein the front portion rises in unison with the rear portion.

Murphy shows a seat similar to that of Vanzant wherein the seat has a rigid base 22, a bladder 98, and a cover 180,186 positioned over the bladder and operatively connected to the base. Therefore, it would have been obvious to one having ordinary

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skill in the art at the time the invention was made to modify the seat of Vanzant to include a cover positioned over the bladder and operatively connected to a base, such as the seat disclosed by Murphy. One would have been motivated to make such a modification in view of the suggestion in Murphy that the cover over the bladder and base provides a soft and comfortable surface for the user to sit on and is water resistant.

Stewart et al. show an air lifted seat apparatus similar to that of Vanzant wherein the apparatus has a rigid base 12, an inflatable bladder 16, a compartment (exterior of compressor 18 and battery 19) located near/outside a side panel of the bladder and connected to the base, a rechargeable self-contained air compressor 18 connected to the base, and a valve 32 devoted to deflation. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Vanzant to include a compartment located at and/or outside one of the side panels of the bladder and operatively connected to the base, the air compressor is rechargeable, self-contained and positioned in the compartment, and a second valve for deflation and operatively connected to a side panel, such as the apparatus disclosed by Stewart et al. One would have been motivated to make such a modification in view of the suggestion in Stewart et al. that the rechargeable compressor-compartment configuration provides a compact air compressor that can be housed within an enclosed space yet be easily rechargeable.

With respect to claims 3 and 8, modifying the height of the rear portion to be approximately 7 inches higher than the front portion at full inflation would have been

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obvious at the time of Applicant's inventions because the use of optimal or workable ranges discovered by routine experimentation is ordinarily within the skill of the art. Further, it would have been an obvious matter of design choice to modify the height of the rear portion of the bladder since Applicant has not disclosed that having the specific height range solves any stated problem or is for any particular purpose, and it appears that the bladder would perform equally well with any well known height range used in the seat art.

Claims 4, 5, 9-12, and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vanzant in view of Murphy and Stewart et al. as applied to claims 1-3 6-8, and 13 above, and further in view of U.S. Patent No. 6,264,279 B1 to Chow.

Vanzant, as modified, discloses a seat apparatus that is basically the same as that recited in claims 4, 5, 9-12, and 14-17 except that the cover lacks a connecting means and specified cover properties, as recited in the claims. Chow shows a seat apparatus similar to that of Vanzant wherein a cover 268 (Fig. 14a) has a removable connecting means of hook and loop fasteners and contains material to minimize slippage on at least a portion of a top of the cover such that the cover is necessarily larger than the core. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the seat apparatus of Vanzant such that the cover has a removable connecting means chosen from snaps, hook and loop fasteners, and zippers, and contains material to minimize slippage on at least a portion of a top of the cover wherein the cover is larger than the bladder when the bladder is fully inflated, such as the seat apparatus disclosed in Chow. One would

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have been motivated to make such a modification in view of the suggestion in Chow that the removable cover protects from debris and is water resistant and that the cover stretches to envelope the seat's core.

Claims 4 and 9 use "selectively removable connecting means," which fails to invoke 35 U.S.C. 112, sixth paragraph, because it does not meet the three prong analysis set forth in MPEP § 2181.

Claims 1-3, 6-8, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,629,162 to Porche in view of Murphy and Stewart et al.

Porche disclose an air lifted seat apparatus that is basically the same as that recited in claims 1-3, 6-8, and 13 except that the apparatus lacks a rigid base, a cover, a rear portion at least three times the height of the front portion, a compartment, a rechargeable self-contained air compressor, and a second valve, as recited in the claims. See Figures 1-3 of Porche for the teaching that the apparatus has a one-piece inflatable bladder 10 including a rectangular front portion, a rectangular rear portion with a height appearing twice the height of the front portion upon full inflation, and first and second trapezoidal shaped side panels operatively connected to the front and rear portions, a valve 24 operatively connected to one of the first and second side panels, an air compressor 12, and a hose 14 with a first end connected to the compressor and a second end connected to the valve wherein the front portion rises in unison with the rear portion.

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Murphy shows a seat similar to that of Porche wherein the seat has a rigid base 22, a bladder 98 positioned on the base, and a cover 180,186 positioned over the bladder and operatively connected to the base. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seat of Porche to include a rigid base positioned under the bladder, a cover positioned over the bladder and operatively connected to a base, such as the seat disclosed by Murphy. One would have been motivated to make such a modification in view of the suggestion in Murphy that the cover over the bladder and base provides soft and comfortable surface for the user to sit on and is water resistant.

Stewart et al. show an air lifted seat apparatus similar to that of Porche wherein the apparatus has a rigid base 12, an inflatable bladder 16, a compartment (exterior of compressor 18 and battery 19) located/outside near a side panel of the bladder and connected to the base, a rechargeable self-contained air compressor 18 connected to the base, and a valve 32 devoted to deflation such that the lifting portion of the seat has a rear portion appearing three times the height of a front portion upon full inflation. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Porche to include a compartment located at and/or outside one of the side panels of the bladder and operatively connected to the base, the air compressor is rechargeable, self-contained, and positioned in the compartment, and a second valve for deflation and operatively connected to a side panel wherein the bladder's rear portion on full inflation is at least three times the height of the front portion, such as the apparatus disclosed by Stewart et

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al. One would have been motivated to make such a modification in view of the suggestion in Stewart et al. that the rechargeable compressor-compartment configuration provides a compact air compressor that can be housed within an enclosed space yet be easily rechargeable and angled to ensure the user is lifted to a standing position.

With respect to claims 3 and 8, modifying the height of the rear portion to be approximately 7 inches higher than the front portion at full inflation would have been obvious at the time of Applicant's inventions because the use of optimal or workable ranges discovered by routine experimentation is ordinarily within the skill of the art. Further, it would have been an obvious matter of design choice to modify the height of the rear portion of the bladder since Applicant has not disclosed that having the specific height range solves any stated problem or is for any particular purpose, and it appears that the bladder would perform equally well with any well known height range used in the seat art.

Claims 4, 5, 9-12, and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Porche in view of Murphy and Stewart et al. as applied to claims 1-3, 6-8, and 13 above, and further in view of Chow.

Porche, as modified, discloses a seat apparatus that is basically the same as that recited in claims 4, 5, 9-12, and 14-17 except that the cover lacks a connecting means and specified cover properties, as recited in the claims. Chow shows a seat apparatus similar to that of Porche wherein a cover 268 (Fig. 14a) has a removable connecting means of hook and loop fasteners and contains material to minimize slippage on at

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least a portion of a top of the cover such that the cover is necessarily larger than the core. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the seat apparatus of Porche such that the cover has a removable connecting means chosen from snaps, hook and loop fasteners, and zippers, and contains material to minimize slippage on at least a portion of a top of the cover wherein the cover is larger than the bladder when the bladder is fully inflated, such as the seat apparatus disclosed in Chow. One would have been motivated to make such a modification in view of the suggestion in Chow that the removable cover protects from debris and is water resistant and that the cover stretches to envelope the seat's core.

### ***Response to Arguments***

Applicant's arguments filed 28 June 2010 have been fully considered but they are not persuasive. Applicant argues that the § 103(a) rejection of claims 1-3 and 6-8 as being unpatentable over Vanzant in view of Murphy and Stewart et al. is improper because Vanzant fails to teaches "a one-piece inflatable bladder," as recited in claim 1. Examiner disagrees. Examiner reasonably interprets "one-piece" as consisting of or formed by a single part. While Examiner concedes that Vanzant's bladder includes partitions between cavities to form an inflatable bag, Vanzant's cavities all interconnect within the inflatable bag to form a single bladder. Next, Applicant argues that the § 103(a) rejection of claims 1-3 and 6-8 as being unpatentable over Vanzant in view of Murphy and Stewart et al. is improper because Vanzant's inflatable bag is incompatible

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with the scissor-braced bellows of Stewart et al. Examiner disagrees. Applicant has presented no evidence that Vanzant teaches away from the desirability of including a deflation valve and a compartment within Vanzant's seat apparatus to house an air compressor. Nothing in Vanzant or Stewart et al. suggests that including a second valve for deflation, a compartment located at a bladder side panel, and a compartment-housed air compressor would render Vanzant's seat apparatus inoperable for its intended purpose of inflating and deflating between a thin planar profile and a trapezoidal profile. Lastly, Applicant argues that the § 103(a) rejection of claims 1-3 and 6-8 as being unpatentable over Vanzant in view of Murphy and Stewart et al. is improper because substantial reconstruction and redesign of elements of Vanzant would be required to add a base and cover taught by Stewart et al. Examiner disagrees. As set forth above, the teachings of Murphy are relied upon to establish one having ordinary skill in the art at the time the invention was made would have been motivated to modify Vanzant's seat apparatus to include a cover positioned over the bladder and operatively connected to a base. In view of the teachings of Murphy, Examiner does not find that adding a rigid base and a cover positioned over the bladder and operatively connected to the base of Vanzant would require substantial reconstruction and redesign of elements of Vanzant.

Applicant argues that the § 103(a) rejection of claims 4, 5, 9, and 10 as being unpatentable over Vanzant in view of Murphy, Stewart et al., and Chow is improper because Chow does not suggest the use of a cover material to minimize slippage. Examiner disagrees. Chow discloses a cover 260/260a that includes hook-and-loop

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fasteners (Velcro ®), nylon (Cordura ®), and polychloroprene (Neoprene ®), which each has properties to minimize slippage. In view of the suggestion in Chow, Examiner finds that one having ordinary skill in the art at the time the invention was made would have been motivated to modify Vanzant's cover to include a material to minimize slippage.

Applicant argues that the § 103(a) rejection of claims 1-3 and 6-8 as being unpatentable over Porche in view of Murphy and Stewart et al. is improper because the combination would not have rendered obvious to one having ordinary skill in the art at the time the invention was made a bladder with a rear portion at least three times the height of the front portion. In support of this argument, Applicant notes that Porche discloses a bladder with a rear portion 1.3 times the height of the front portion. While Examiner concedes that Porche disclose a trapezoidal shape with a 13-inch rear height and a 10-inch front height, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. As set forth above, Stewart et al. disclose a fully-inflated bladder with a rear portion at least three times the height of the front portion such that one having ordinary skill in the art would have been motivated to modify the trapezoidal shape of Proche's bladder such that the rear portion is at least three times the height of the front portion upon full inflation.

Applicant argues that the § 103(a) rejection of claims 4, 5, 9, and 10 as being unpatentable over Porche in view of Murphy, Stewart et al., and Chow is improper because Chow does not suggest the use of a cover material to minimize slippage. Examiner disagrees. Chow discloses a cover 260/260a that includes hook-and-loop fasteners (Velcro ®), nylon fibers (Cordura ®), and polychloroprene (Neoprene ®), which

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each has properties to minimize slippage. In view of the suggestion in Chow, Examiner finds that one having ordinary skill in the art at the time the invention was made would have been motivated to modify Porche's cover to include a material to minimize slippage.

Upon consideration of Applicant's arguments, Examiner maintains the rejection of claims 1-10 and rejects new claims 11-17.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Joseph F Edell/  
Primary Examiner, Art Unit 3636  
September 9, 2010